



To the Honorable Council
City of Norfolk, Virginia

October 13, 2015

From: David L. Ricks, Director of Public Works

Subject: Relocation, Vacation and
Release of a 2007 Drainage Easement

Reviewed:

Ronald H. Williams, Jr., Deputy City Manager

Ward/Superward: 1/6

Approved:

Marcus D. Jones, City Manager

Item Number:

R-8

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Watermark Apartments, L.P.

III. **Description:**

This agenda item is an ordinance approving the relocation, vacation, and release of a 2007 drainage easement located on property owned by Watermark Apartments, L.P. ("Watermark").

IV. **Analysis:**

A drainage easement was conveyed by Collins Recap V, LLC ("Collins") to the City of Norfolk ("City") on December 12, 2007 (the "2007 Easement") for drainage along, over, under and through property located at Newport Avenue and Harvard Street (collectively "the Property"). In 2014, Collins dedicated a new drainage easement (the "2014 Easement") to the City, which was meant to replace the 2007 Easement. The Property has since been sold to Watermark. As it was the intent that the 2014 Easement exist instead of, and in place of, the 2007 Easement, Watermark has requested the City vacate the 2007 Easement as it is no longer needed for municipal purposes.

V. **Financial Impact:**

There are no costs associated with the relocation, vacation, and release of this easement.

VI. **Environmental:**

There are no known environmental issues associated with relocation, vacation, and release of this easement.

VII. Community Outreach/Notification:

Public notification for this agenda item was conducted through the City's agenda notification process.

VIII. Board/Commission Action:

N/A

IX. Coordination/Outreach

This letter has been coordinated with Department of Public Works and the City Attorney's Office.

Supporting Material from the Department of Public Works:

- Ordinance
- Exhibit A
- Exhibit B
- Exhibit C
- Exhibit D

Form and Correctness Approved:

By

Office of the City Attorney

Contents Approved:

By

DEPT. Public Works

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE AUTHORIZING THE VACATION AND RELEASE BY THE CITY OF NORFOLK TO WATERMARK APARTMENTS, LP, A CERTAIN PORTION OF A 2007 DRAINAGE EASEMENT LOCATED ON THE WEST SIDE OF NEWPORT AVENUE; AND AUTHORIZING THE CITY MANAGER TO EXECUTE AND DELIVER A DEED OF RELEASE ON BEHALF OF THE CITY AND TO DO ALL OF THE THINGS NECESSARY AND PROPER TO EFFECT THE VACATION AND RELEASE OF SAID PORTION OF THE DRAINAGE EASEMENT.

- - -

WHEREAS, a certain easement ("2007 Easement") was conveyed by Collins RECAP V, LLC to the City of Norfolk, by Deed of Easement, recorded in the City of Norfolk Circuit Court on December 12, 2007, as Instrument No. 070044356, for drainage along, over, under and through certain property located on the west side of Newport Avenue, as shown on the attached exhibit plat entitled "Exhibit Showing 20' Drainage Easement at Newport Avenue and A Closed Portion of Harvard Street", which is attached hereto as "Exhibit A"; and

WHEREAS, Collins RECAP V, LLC, dedicated another drainage easement (the "2014 Easement") to the City of Norfolk, and said 2014 Easement connects into and is an extension of the 2007 Easement, and is shown on that certain plat entitled "RESUBDIVISION PLAT OF PARCELS 2-2 & 2-3, SUBDIVISION PLAT OF PARCEL 2 WESTPORT COMMONS AND PARCEL 1, SUBDIVISION PLAT OF "THE WATERMARK, A CONDOMINIUM", recorded in the City of Norfolk Circuit Court on

September 30, 2014, in Map Book 72, page 141, which is attached hereto as "Exhibit B"; and

WHEREAS, by deed dated May 22, 2015, and recorded May 28, 2015 as Instrument No. 150010974, Collins RECAP V, LLC conveyed to Watermark Apartments, LP the property upon which the subject portions of the 2007 Easement and the 2014 Easement are located; and

WHEREAS, in that the 2014 Easement is intended to exist instead of, and in place of, a certain portion of the 2007 Easement, the current owner of the property, Watermark Apartments, LP, has requested the City of Norfolk vacate this certain portion of the 2007 Easement, as shown on that certain plat entitled "EXHIBIT OF DRAINAGE EASEMENT VACATION", which plat is also attached hereto and made a part hereof as "Exhibit C", and is specifically described in that certain legal description entitled "PART OF A 20' DRAINAGE EASEMENT BEING VACATED NEWPORT AVE - PARCEL 1-A", which legal description is also attached hereto and made a part hereof as "Exhibit D"; and

WHEREAS, said certain portion of the 2007 Easement, that is shown on "Exhibit C" and described in "Exhibit D", is no longer needed for municipal purposes; now, therefore,

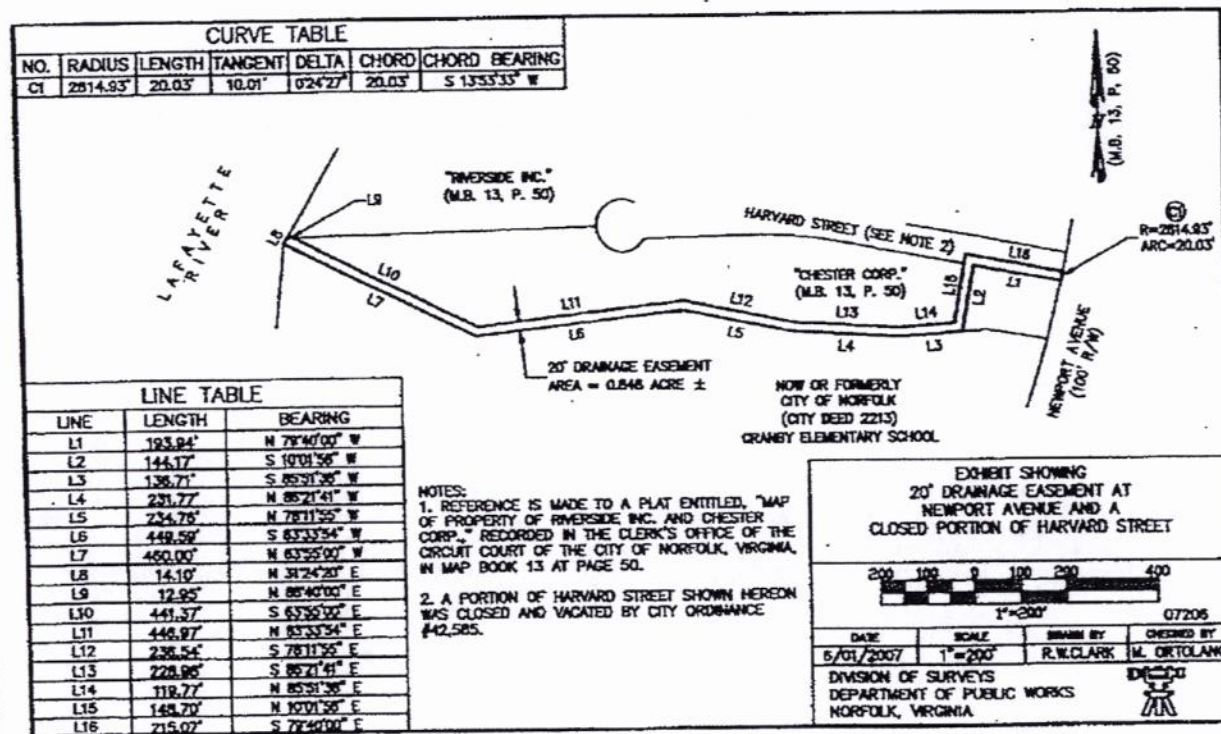
BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the certain portion of the easement, which was deeded to the City of Norfolk for drainage and located on the west side of Newport Avenue,

being shown on "Exhibit C" and described in "Exhibit D", is hereby vacated and released.

Section 2:- That the City Manager and other proper officers of the City are authorized to deliver a Deed of Release, in form satisfactory to the City Attorney, and do all things necessary and proper to effect the vacation and release of the above described portion of the drainage easement.

Section 3:- That this ordinance shall be in effect from and after 30 days from the date of its adoption.



THE PLATING OR DEDICATION OF THE FOLLOWING DESCRIBED LAND, "RESUBDIVISION PLAT OF PARCELS 2-2 & 2-3, SUBDIVISION PLAT OF PARCEL 2 WESTPORT COMMONS AND PARCEL 1, SUBDIVISION PLAT OF THE WATERMARK, A CONDOMINIUM", LOCATED IN NORFOLK, VIRGINIA, IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS AND TRUSTEES, IF ANY:

COLLINS RECAP V, LLC
A VIRGINIA LIMITED LIABILITY COMPANY

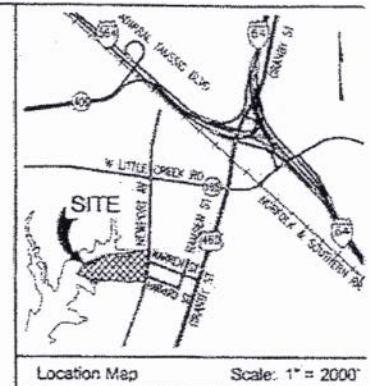
BY: COLLINS RIVERSIDE, LLC
A DELAWARE LIMITED LIABILITY COMPANY, MANAGER

BY: Arthur Collins II DATE: 9/16/14, 2014
ARTHUR COLLINS II

GENERAL NOTES:

1. THE MERIDIAN SOURCE OF THIS PLAT IS BASED ON THE VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 83(93) HARN.
2. A DEED OF TEMPORARY UTILITY EASEMENT RECORDED IN INSTRUMENT NO. 070044357 EXISTS ACROSS THE VACATED PORTIONS OF WARREN STREET AND HARVARD STREET. THIS EASEMENT SHALL REMAIN IN EFFECT UNTIL SUCH TIME AS THE OWNER ASSUMES FULL AND COMPLETE RESPONSIBILITY FOR THE MAINTENANCE AND REPAIR OF THE UTILITY FACILITIES LOCATED WITHIN THE EASEMENT OR REPLACES THE PUBLIC UTILITY FACILITIES WITH ITS OWN PRIVATE FACILITIES AND RELIEVES THE CITY OF ALL SUCH RESPONSIBILITIES SATISFACTORY TO THE CITY'S DIRECTOR OF UTILITIES. AT SUCH TIME, AND UPON RECEIVING WRITTEN NOTIFICATION FROM THE OWNER THAT THE UTILITY FACILITIES AND THE EASEMENT OVER THE SAME ARE TO BECOME PRIVATE, THE CITY SHALL RELEASE THE EASEMENT AND ALL OWNERSHIP INTERESTS IN THE UTILITY FACILITIES LOCATED THEREIN BY A DULY RECORDED DEED OF RELEASE.
3. THIS PROPERTY IS LOCATED IN THE CHESAPEAKE BAY PRESERVATION AREA (CBPA) AND IS SUBJECT TO CERTAIN DEVELOPMENT REQUIREMENTS AND LIMITATIONS. NO TREE REMOVAL, LAND DISTURBING ACTIVITY OR CONSTRUCTION ACTIVITY CAN BE COMMENCED WITHOUT PRIOR APPROVAL FROM THE CITY OF NORFOLK. PLEASE CONTACT THE BUREAU OF ENVIRONMENTAL SERVICES AT 664-4368 FOR FURTHER INFORMATION.
4. AREA SUMMARY

| | SQ. FT. | ACRES |
|-------------|---------|--------|
| PARCEL 2-2A | 10,192 | 0.234 |
| PARCEL 1-A | 215,145 | 4.939 |
| PARCEL 2-A | 734,555 | 16.863 |
| TOTAL | 959,892 | 22.036 |



Location Map

Scale: 1" = 2000'

TITLE SOURCE:

THE PROPERTY EMBRACED WITHIN THE LIMITS OF THIS SUBDIVISION WAS CONVEYED TO COLLINS RECAP V, LLC FROM RIVERSIDE TERRACE APARTMENTS ASSOCIATES, L.C. BY DEED DATED SEPTEMBER 8, 2005 AND RECORDED IN INSTRUMENT NO. 050037565 IN THE CLERK'S OF THE CIRCUIT COURT OF THE CITY OF NORFOLK, VIRGINIA. THE VACATED PORTION OF WARREN STREET AND HARVARD STREET CLOSED BY CITY ORDINANCE NO. 42,585 RECORDED IN INSTRUMENT NO. 070044354 IN THE CLERK'S OF THE CIRCUIT COURT OF THE CITY OF NORFOLK WAS CONVEYED TO COLLINS RECAP V, LLC FROM THE CITY OF NORFOLK BY DEED DATED DECEMBER 7, 2007 AND RECORDED IN INSTRUMENT NO. 070044355 IN THE CLERK'S OF THE CIRCUIT COURT OF THE CITY OF NORFOLK, VIRGINIA.

M.B. 65, PG. 37, M.B. 57, PG. 139

I, EDWARD F. RUDIGER, JR., A LAND SURVEYOR DO HEREBY CERTIFY THAT THIS PLAT WAS MADE BY ME, THE UNDERSIGNED, AT THE DIRECTION OF THE OWNER, AND THAT THIS SUBDIVISION IS ENTIRELY WITHIN THE BOUNDARIES OF LAND COVERED BY DEED DESCRIBED BELOW, AND THAT CONCRETED STEEL PINS AS SPECIFIED BY THE SUBDIVISION REGULATIONS OF THE CITY OF NORFOLK, VIRGINIA ARE ACTUALLY IN PLACE AT POINTS MARKED THIS, "A", AND THAT THEIR LOCATIONS ARE CORRECTLY SHOWN.

EDWARD F. RUDIGER, JR.
PROFESSIONAL LAND SURVEYOR
LICENSE No. #1698

DATE: SEPT 15, 2014

VERIFICATION:

IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF NORFOLK, VIRGINIA, ON THE 30th DAY OF September, 2014, AT 11:00am THIS PLAT WAS THIS DAY RECEIVED AND UPON CERTIFICATE OF ACKNOWLEDGEMENT THEREIN ANNEXED, ADMITTED TO RECORD IN MAP BOOK 12 AT PAGE 140.

TESTE:

CLERK Del. Jea
Kumbano

SHEET 1 OF 2

THE UNDERSIGNED CERTIFY THAT THIS SUBDIVISION AS IT APPEARS ON THIS PLAT, CONFORMS TO THE APPLICABLE REGULATIONS RELATING TO THE SUBDIVISION OF LAND AND IS ACCORDINGLY APPROVED. BY SUCH APPROVAL, THE UNDERSIGNED DO NOT CERTIFY AS TO THE CORRECTNESS OF THE BOUNDARY, STREETS OR OTHER LINES SHOWN ON THIS PLAT.

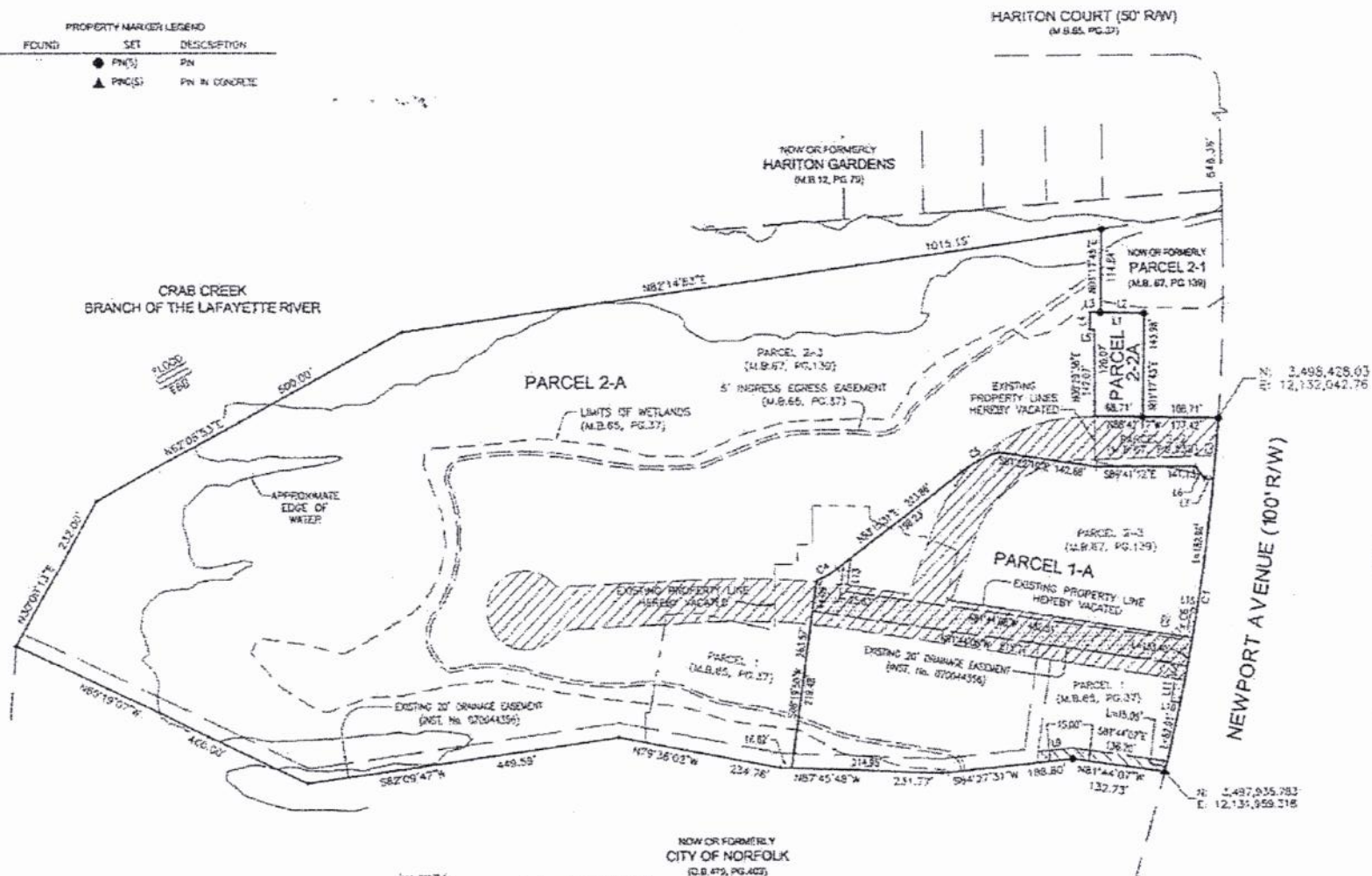
Norman M. Swannick DATE: 9/16, 2014
DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT, NORFOLK, VIRGINIA

John I. Hagan DATE: 9/30, 2014
DEPARTMENT OF PUBLIC WORKS, NORFOLK, VIRGINIA

Letitia D. Quijada DATE: 9/26, 2014
DEPARTMENT OF UTILITIES, NORFOLK, VIRGINIA

| | | |
|---|-------|--|
| RESUBDIVISION PLAT OF PARCELS 2-2 & 2-3, SUBDIVISION PLAT OF PARCEL 2 WESTPORT COMMONS AND PARCEL 1, SUBDIVISION PLAT OF THE WATERMARK, A CONDOMINIUM NORFOLK, VIRGINIA | | |
| Date 07/08/14 | Scale | |
| engineering services inc Civil Engineering - Land Surveying 3351 Stonehenge Road, Virginia Beach, VA 23452 (757) 464-8800 FAX (757) 464-4066 E-mail: esmail@esincva.com | | |
| Project: <u>0602</u> Draw: <u>001</u> Check: <u>002</u> Date: <u>09/15/14</u> By: <u>001</u> | | |

| PROPERTY MARKER LEGEND | | |
|------------------------|-------|----------------|
| FOUND | SET | DESCRIPTION |
| ● | PN(S) | PN |
| ▲ | PN(S) | PN IN CONCRETE |



VIRGINIA STATE PLANE COORDINATE SYSTEM
(1983 HARN ADJUSTMENT)

VIRGINIA:
In the Clerk's Office of the Circuit Court of the City
of Norfolk, on the 21st day of September, 2014 at 11:00 AM
This Plat was this day received and upon certificate
of acknowledgement, thereto annexed and admitted to
record.

Tell: George E. Schaefer, Clerk
By: *[Signature]*
MS-72 PAGE 141

| LINE TABLE | | |
|------------|-------------|----------|
| LINE | BEARING | DISTANCE |
| L1 | S88°42'17"E | 77.00' |
| L2 | S88°42'17"E | 65.00' |
| L3 | S88°42'17"E | 15.00' |
| L4 | S07°17'43"W | 23.92' |
| L5 | S88°42'17"E | 6.60' |
| L6 | S40°12'58"E | 22.26' |
| L7 | S83°06'44"E | 11.25' |
| L8 | S81°44'28"E | 20.86' |
| L9 | N84°37'31"E | 50.12' |
| L10 | N77°16'04"W | 12.90' |
| L11 | N02°04'41"E | 44.34' |
| L12 | N41°56'00"W | 14.67' |
| L13 | S08°15'52"W | 48.33' |
| L14 | H48°04'00"E | 12.98' |
| L15 | S74°58'59"E | 8.50' |

| CURVE TABLE | | | | | | |
|-------------|-----------|----------|---------|---------|---------|-------------|
| CURVE | DELTA | RADIUS | LENGTH | CHORD | TANGENT | CHD BEARING |
| C1 | 10°10'33" | 2814.93' | 499.93' | 499.27' | 250.82' | S08°37'15"W |
| C2 | 08°24'57" | 2814.93' | 413.46' | 413.09' | 207.10' | N10°30'03"E |
| C3 | 01°45'36" | 2814.93' | 86.42' | 86.46' | 43.24' | N08°24'43"E |
| C4 | 17°15'31" | 1113.02' | 34.06' | 33.92' | 17.15' | N05°24'47"E |
| C5 | 18°45'31" | 174.50' | 30.18' | 59.88' | 30.39' | N53°08'17"E |
| C6 | 0°42'03" | 2806.43' | 34.32' | 34.32' | 17.16' | N79°16'56"W |

INDICATES TEMPORARY UTILITY EASEMENT
(INSTR. NO. 070044357)
(SEE NOTE 2 ON SHEET 1)

INDICATES PROPOSED COMMON
ACCESS AND UTILITIES EASEMENT
TO BE ESTABLISHED BY DEED

INDICATES 15' DRAINAGE EASEMENT HEREBY
DEDICATED TO THE CITY OF NORFOLK

SHEET 2 OF 2

| | | |
|--|------------------|--|
| RESUBDIVISION PLAT OF PARCELS 2-2 & 2-3, SUBDIVISION PLAT OF PARCEL 2 WESTPORT COMMONS AND PARCEL 1, SUBDIVISION PLAT OF "THE WATERMARK, A CONDOMINIUM" NORFOLK VIRGINIA | | |
| Date 07/08/14 | Scale 1"=100' | |
| | | |
| Civil Engineering - Land Surveying 3301 Stonehenge Road, Virginia Beach, VA 23462 (757) 469-8800 FAX (757) 469-4068 Email: emel@esvsrva.com | | |
| Project/Drawn/Check/Revised/Date/Name 08225 / GVL / 07/08/14 / 08225 / 08225 / 08225 | | |

EXHIBIT C

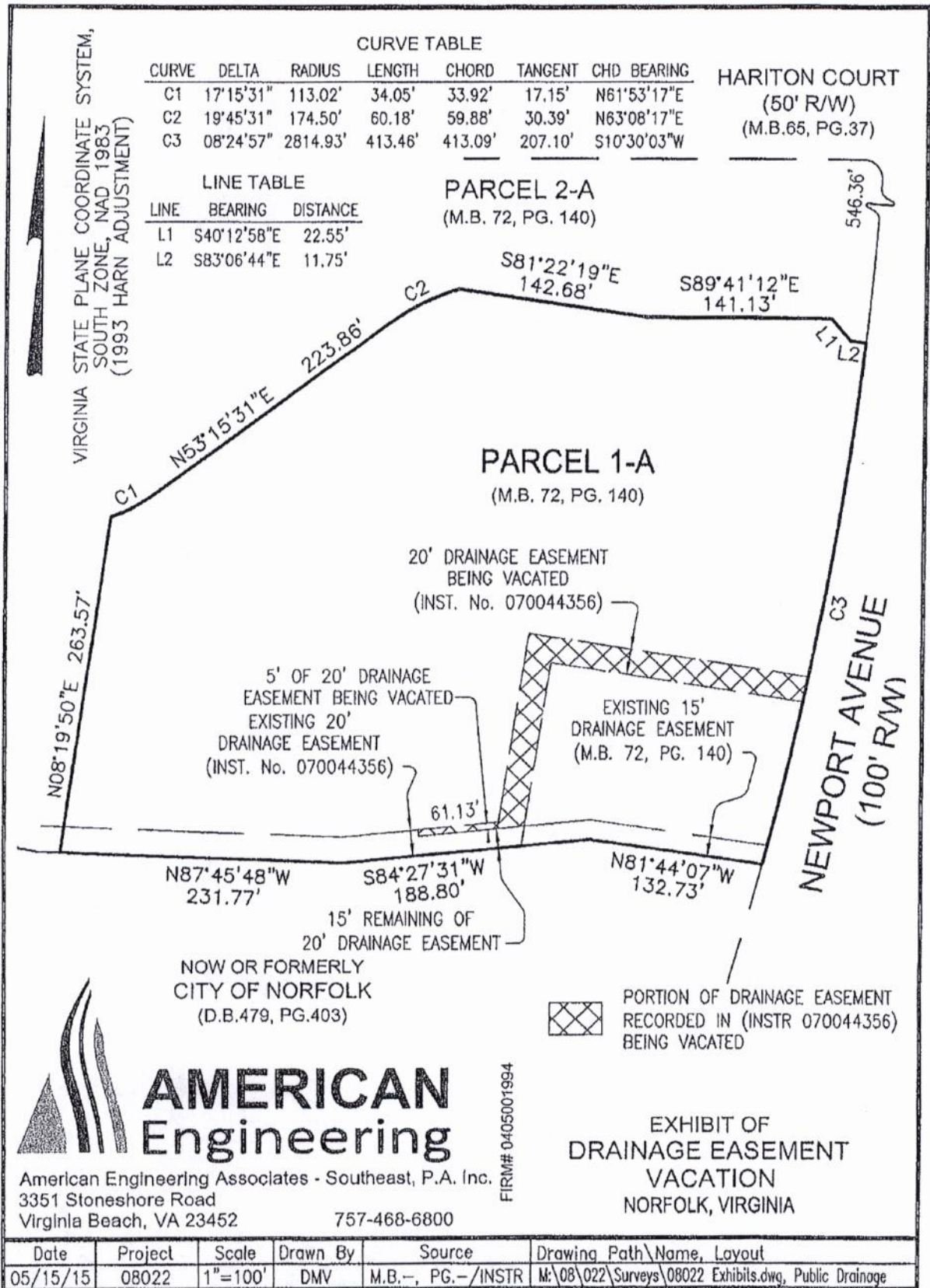


EXHIBIT D

PART OF A 20' DRAINAGE EASEMENT BEING VACATED NEWPORT AVE-PARCEL 1-A

All that certain lot, piece or parcel of land situate, lying and being in the City of Norfolk, Virginia, said parcel being further described as follows: COMMENCING at a point that is the southeast corner of Parcel 1-A, said parcel being shown on a plat entitled, "Resubdivision Plat of Parcels 2-2 & 2-3, Subdivision Plat of Parcel 2 Westport Commons and Parcel 1, Subdivision Plat of The Watermark, A Condominium" said plat being duly recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia, in Map Book 72 at Page 140-141; thence, 130.01 feet, more or less, along the arc of a curve to the left on the western line of said Newport Avenue, having a radius of 2814.93 feet, more or less, a chord distance of 130.00 feet, more or less and a chord bearing of N 14°-47'-15" E to the POINT OF BEGINNING, said point of beginning lying on the southern line of Harvard street (Harvard Street closed by Ordinance # 42,585) as shown on exhibit entitled "Exhibit Showing 20' Drainage Easement at Newport Avenue and a Closed Portion of Harvard Street" said exhibit being duly recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia, in Instrument # 070044356; thence running along the southern line of Harvard Street (closed by Ordinance # 42,585) N 79°-40'-00" W, 193.94 feet, more or less, to a point; thence, S 10°-01'-58" W, 128.70 feet, more or less, to a point on the northern line of a 15' Drainage Easement as shown on said plat recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia, in Map Book 72 at Page 140-141; thence, S 85°-51'-38" W, 80.49 feet, more or less, to a point; thence, N 04°-08'-22" W, 5.00 feet, more or less, to a point; thence, N 85°-51'-38" E, 61.13 feet, more or less, to a point; thence, N 10°-01'-58" E, 148.70 feet, more or less, to a point on the said southern line of Harvard Street (closed by Ordinance # 42,585); thence, S 79°-40'-00" E, 215.07 feet, more or less, to a point on the western line of said Newport Avenue; thence, 20.03 feet, more or less, along the arc of a curve to the right on the western line of said Newport Avenue, having a radius of 2814.93 feet, more or less, a chord distance of 20.03 feet, more or less and a chord bearing of S 13°-15'-38" W to the point of beginning, as shown on an exhibit entitled, "Exhibit of Drainage Easement Vacation, Norfolk, Virginia" said exhibit being dated May 15, 2015 and being prepared by American Engineering of Virginia Beach, Virginia.

The above-described parcel contains 0.166 acres of land, more or less.

August 26, 2015